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8 **IN THE UNITED STATES DISTRICT COURT**
9 **FOR THE DISTRICT OF NEVADA**
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11	METABOLIC RESEARCH, INC.,) Case No.: 2:09-CV-02453-JCM-PAL
12	a Nevada corporation,)
13	Plaintiff,) ORDER RE: DEFENDANTS' SPECIAL
14	vs.) MOTION TO DISMISS AND
15	SCOTT J. FARRELL, MICHAEL) COUNTERMOTION FOR STAY
16	CAMPOS, THOMAS HESS, SARA)
17	JORDAN, DOES I-V, inclusive,)
18	DOE ENTITIES VI-X, inclusive,)
19	Defendants.)

20 Defendants' Special Motion to Dismiss and Plaintiff's
21 Countermotion for Stay having come on regularly for hearing, Beverly
22 Salhanick, Esquire, appearing for Plaintiff, Bevin Allen, Esquire of
23 Khorrami Pollard & Abir, LLP and Jennifer A. Carrollo, Esquire of the
24 law firm of Springel & Fink, LLP, the Court having reviewed the
25 pleadings and papers on file and having heard the arguments of
counsel, and good cause appearing,

26 THE COURT FINDS:

27 1. Nevada case law is controlling.
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1 2. That N.R.S. 41.650 sets out the definition of good faith in
2 matters regarding the Nevada Anti-SLAPP statute.

3 3. That N.R.S. 41.627 defines good faith communication in
4 furtherance of right to petition in three distinct situations.

5 4. That the demand letter at issue does not fall within any of
6 the situations described in N.R.S. 41.627

7 5. That based on John v Douglas County School District, 125
8 Nev. Adv. Op. No. 55, 219 P.3d 1276 (2009), headnote 6, the Nevada
9 Anti-SLAPP statute does not apply.

10 6. That the litigation privilege is governed by Nevada law and
11 does not apply in this instance.

12 7. That there is no basis for a stay of this proceeding.


13 IT IS THEREFORE ORDERED that the Defendants' Special Motion to

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Dismiss is denied.

IT IS FURTHER ORDERED that Plaintiff's Countermotion for Stay is denied.

DATED this 30th day of April, 2010.


UNITED STATES DISTRICT COURT JUDGE

Submitted by:

BEVERLY SALHANICK, ESQ., P.C.

/s/ Beverly Salhanick
Beverly Salhanick, Esquire
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Attorney for Plaintiff

Counsel submitting this document certifies as follows:

I have delivered a copy of this proposed order to all counsel who appeared at the hearing, any unrepresented parties who appeared at the hearing, and each has approved or disapproved the order, or failed to respond, as indicated below:

Bevin Allen, Khorrami Pollard & Abir, LLP-disapproved

Jennifer A. Carrollo, Springel & Fink-disapproved